

Amendment No. 1 to SB2233

McNally  
Signature of Sponsor

**AMEND Senate Bill No. 2233**

**House Bill No. 2371\***

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

**67-1-\_\_\_\_\_.**

(a) The commissioner is authorized to require that any return, report, claim, statement, application, or other document filed with the department, including any payment or remittance that accompanies such document, be submitted electronically in a manner approved by the commissioner beginning no sooner than ninety (90) days after the commissioner has certified that a system is in place for the electronic submission of such document or payment. Such certification shall be accomplished by the commissioner prominently posting a notice on the department's website.

(b) If an electronic filing requirement imposed pursuant to the authority granted in subsection (a) creates a hardship upon the person subject to the requirement, such person shall be permitted to file the applicable document in paper form. The commissioner is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars (\$25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

(c) This section shall apply to any tax, regulatory, or other provision of law administered by the department of revenue under this or any other title. This section shall not, however, be construed to supersede or otherwise affect any

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electronic filing or payment requirement already provided by law on January 1, 2012, including any penalty or waiver provisions connected therewith, and shall not require the certification of any system already in place before January 1, 2012.

(d) Notwithstanding any provision of law to the contrary, the cumulative total of manual handling fees charged to any one (1) taxpayer for all tax filings in any twelve-month period shall not exceed fifty dollars (\$50.00).

(e) The department shall notify each taxpayer that the cumulative total of all manual handling fees for all paper returns, reports, claims, statements, applications, or other documents filed with the department, including any payments or remittances that accompany such documents, shall not exceed fifty dollars (\$50.00) for all such filings in any twelve-month period. The department shall include such notice in any one (1) regularly scheduled communication between the department and the taxpayer

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

**67-1-\_\_\_\_.**

Notwithstanding any provision of law to the contrary, the commissioner is authorized to deduct and retain from the proceeds of any tax administered and collected by the commissioner an amount necessary to offset the fee paid to a third party for the processing of documents and payments that are submitted electronically to the department.

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

**67-1-\_\_\_\_.**

Notwithstanding any provision to the contrary, when any provision administered by the commissioner requires that any document be filed, submitted, or retained in paper, microfiche, or any other non-digital format, the commissioner is authorized to permit the filing, submission, or retention of such document in a digital format.

SECTION 4. Tennessee Code Annotated, Section 67-3-706(b), is amended by deleting the language “of five hundred dollars (\$500)” and substituting instead the language “, not to exceed five hundred dollars (\$500),”.

SECTION 5. Tennessee Code Annotated, Section 67-4-715(d), is amended by deleting subdivision (3) in its entirety and by substituting instead the following:

(3) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under this subsection a penalty, not to exceed five hundred dollars (\$500), for each instance of filing a return by any other means. The penalty shall be subject to waiver under the provisions of § 67-1-803. In extenuating circumstances, the commissioner is authorized to waive the electronic payment and filing requirements under this subsection and permit the taxpayer to file the return in paper form. The commissioner is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars (\$25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

SECTION 6. Tennessee Code Annotated, Section 67-4-715, is amended by adding the following language as a new subsection (g):

(g) Notwithstanding subsections (a) and (b), the commissioner is authorized to change the tax period established by this part to correspond to the taxpayer’s fiscal year. The commissioner is further authorized to change the due

date of the associated tax return to a date that is not less than two calendar months following the end of such tax period. Such change is authorized to occur no sooner than ninety (90) days after the commissioner has certified that a system is in place for the electronic submission of all tax returns required by this part. Such certification shall be accomplished by the commissioner prominently posting a notice on the department's website.

SECTION 7. Tennessee Code Annotated, Section 67-6-504(f), is amended by deleting the last sentence and by substituting instead the following:

In extenuating circumstances, the commissioner is authorized to waive the electronic payment and filing requirements under this subsection (f) and under § 67-1-703(b) and permit the taxpayer to file the return in paper form. The commissioner is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars (\$25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

SECTION 8. Tennessee Code Annotated, Section 67-6-504, is amended by deleting subsection (g) in its entirety and by substituting instead the following:

(g) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under subsection (f) a penalty, not to exceed five hundred dollars (\$500), for each instance of filing a return by any other means. Such penalty shall be subject to waiver under the provisions of § 67-1-803.

SECTION 9. Tennessee Code Annotated, Title 67, Chapter 6, Part 4, is amended by adding the following as a new section:

**67-6-4\_\_.**

(a) The commissioner of revenue is authorized to require persons selling beer, as defined in § 57-5-101(b), and persons selling tobacco products, as

defined in § 67-4-1001(20), to retailers of such beverages or products to file an information report of such sales with the department.

(b) The information report shall contain such information as deemed reasonably necessary by the commissioner of revenue to ascertain the correctness of any tax return or to determine the liability of any person taxable under this part, and may include, but is not limited to, the following information:

- (1) The seller's name and license number;
- (2) The retailer's name, beer permit number if applicable, and sales and use tax account number;
- (3) The retailer's situs code and address, including street address, county, municipality, state, and ZIP code;
- (4) The general type of product sold;
- (5) The dates each type of product was sold;
- (6) The quantity of each type of product sold; and
- (7) The monthly sales total, in dollars, of each type of product sold.

(c) The information report shall be filed electronically in a format specified by the commissioner. In extenuating circumstances, upon written request, the commissioner is authorized to waive such electronic filing requirement.

(d) Notwithstanding subsection (b) or (c) to the contrary, no seller shall be required to change its record keeping system for purposes of this section. If the seller's records do not include all of the information requested by the commissioner, or include the information in a different format than requested by the commissioner, the requirements of this section shall be satisfied if the seller includes in the report all of the requested information that the seller does have, in the format in which the seller ordinarily maintains such information.

(e) The information report shall be filed on a monthly or less frequent basis as determined by the commissioner, but in no event shall the report be due

sooner than the twentieth (20th) day of the month following the reporting period.

Any seller who fails to provide the information report by the due date is subject to a penalty, not to exceed one thousand dollars (\$1,000), for every month the report is not provided, or part thereof, up to a maximum amount of ten thousand dollars (\$10,000). The commissioner is authorized to waive the penalty, in whole or in part, for good and reasonable cause under § 67-1-803.

(f) Any person selling beer, as defined in § 57-5-101(b), who files the report required by this section, which report contains at least the information required by § 57-6-105(b), shall not be required to file with the department the report otherwise required by § 57-6-105(b); provided, however, that nothing in this subsection shall relieve the seller from filing any report, or copy thereof, with any county or municipality.

SECTION 10. Tennessee Code Annotated, Sections 57-5-206(b) and 57-6-105(c), are amended by deleting the language “microfiche” and by substituting instead the language “digital.”

SECTION 11. Tennessee Code Annotated, Title 55, Chapter 2, Part 1, is amended by adding the following as a new, appropriately designated section:

**55-2-\_\_\_\_.**

Notwithstanding any provision to the contrary, when any provision in chapter 1, this chapter, or chapters 3-6 of this title requires that any document be filed, submitted, or retained in paper, microfiche, or any other non-digital format, the commissioner is authorized to permit the filing, submission, or retention of such document in a digital format.

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.